

RECEIVED
CENTRAL FAX CENTER

FEB 25 2005

PATENTS
TRADEMARKS
COPYRIGHTS

KERMIT H. ROSS
1970-1985

OF COUNSEL
PHILIP H. SHERIDAN
DAVID F. ZEMER
CRAIG C. GROSSETH

TECHNICAL SPECIALISTS
DENNIS J. DUPRAY, Ph.D.
ANGELA DALLAS SEBOR, Ph.D.

TODD P. BLAKELY
GARY J. CONNELL
SABRINA C. STAVISH
JOSEPH E. KOVARIK
SUSAN PRYOR WILLSON
LEWIS D. HANSEN
ROBERT R. BRUNELLI
DOUGLAS W. SWARTZ
BRUCE A. KUHLER
BRENT P. JOHNSON
BENJAMIN B. LIEB
BRADLEY M. KNEPPER
MIRIAM DRICKMAN TRUDELL
SCOTT R. BIALECKI
ROBERT D. TRAVER, Ph.D.
CHRISTOPHER J. HUSSEN
MARK L. YASKANIN
MARY BREEN SMITH
CRAIG W. MUELLER
PAUL S. CHA

SHERIDAN ROSS
A Professional Corporation
ATTORNEYS AND COUNSELORS AT LAW

1560 BROADWAY
SUITE 1200
DENVER, COLORADO 80202-5141

TELEPHONE (303) 863-9700
FACSIMILE (303) 863-0223
E-MAIL: swlaw@sheridanross.com

FACSIMILE COVER SHEET

TIME: _____

DATE: February 25, 2005

Please deliver the following page(s) to:

Name: U.S. Patent and Trademark Office

Facsimile Number: 703/872-9306

Our Client No.: 4770-37

Your Ref.: Serial No. 10/688,216 filed 10/15/2003

Total Number of Pages, including this cover page: 26

Sender's Name: Douglas W. Swartz

MESSAGE:

Please see the attached (1) Fourth Supplemental Information Disclosure Statement, (2) PTO-1449, and (3) copy of PCT International Preliminary Examination Report to be filed in connection with the above-referenced patent application.

PLEASE CONFIRM RECEIPT

If you do not receive all the pages, please call Amy Duarte at (303) 863-9700.

THIS FACSIMILE MESSAGE IS CONFIDENTIAL AND MAY CONTAIN ATTORNEY PRIVILEGED INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR COMPANY NAMED ABOVE. If the reader is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, so that we may arrange for the return of the original message to us. Thank you.

RECEIVED
CENTRAL FAX CENTER

FEB 25

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/688,216
Applicant : JACKSON et al.
Filed: : October 15, 2003
TC/A.U. : 3673
Examiner: : KRECK, JOHN J.
Docket No. : 4770-37
Customer No. : 22442
Title: : "AUTOMATED EXCAVATION MACHINE"

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS PAPER IS BEING
FACSIMILE TRANSMITTED TO THE UNITED STATES
PATENT AND TRADEMARK OFFICE TO (703) 872-9306 ON
2/25/05.

SHERIDAN ROSS P.C.

BY: 

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FOURTH SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☐ Copies of the cited non-patent, non-published patent application, and/or foreign references are enclosed herewith.

☐ Copies of the cited U.S. patents/patent application publications are not enclosed in accordance with the waivers dated July 11, 2003 and October 19, 2004, whereby patent applications filed, regardless of the filing date, need not submit copies of U.S. patents and U.S. patent application publications.

☐ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d), because the references were cited by or submitted to the U.S. Patent and Trademark Office in prior application Serial No. _____ filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

☐ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is drawn to the following co-pending applications:

Serial No. _____ filed _____

☒ Other: Attached hereto is a copy of PCT International Preliminary Examination Report for Int'l Appl. No. PCT/IB03/05356, which is the PCT counterpart of the above-identified application.

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input checked="" type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith satisfies one of the following conditions ("X" indicates satisfaction):</p> <ul style="list-style-type: none"> <input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or <input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or <input checked="" type="checkbox"/> Before the mailing date of a first Office Action on the merits, or <input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p>
<input type="checkbox"/>	<p>37 CFR 1.97(e): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <ul style="list-style-type: none"> (1) a final action under 37 C.F.R. 1.113 or (2) a notice of allowance under 37 C.F.R. 1.311, or (3) an action that otherwise closes prosecution in the application. <p>This Information Disclosure Statement is accompanied by:</p> <ul style="list-style-type: none"> <input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970. <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> <input type="checkbox"/> Please charge Deposit Account 19-1970 in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account 19-1970.
<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <ul style="list-style-type: none"> <input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e) <p style="text-align: center;">AND</p> <ul style="list-style-type: none"> <input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Please charge Deposit Account 19-1970 in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification.

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☐ The undersigned certifies that:

- ☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).
- ☐ A copy of the communication from the foreign patent office is enclosed.

OR

- ☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Douglas W. Swartz
Registration No. 37,739
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: Feb. 25, 2005

02/25/2005 12:13 FAX 3038630223

SHERIDAN ROSS

FEB 25 2005

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT				Complete if Known	
				Application Number	10/688,216
				Filing Date	October 15, 2003
				First Named Inventor	Simon Mark Jackson
				Art Unit	3673
Examiner Name	KRECK, JOHN J.				
Attorney Docket Number	4770-37				
Sheet	1	of	1		

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear

FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. ¹	Foreign Patent Document		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T*
		Country Code ² ; Number ³ ; Kind Code ⁴ (if known)					

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)		
Examiner Initials*	Cite No. ¹	
	1.	PCT International Preliminary Examination Report for International App. No. PCT/IB03/05356 dated February 3, 2005.

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference is considered, whether or not citation is in conformance and not considered. Include copy of this form with next communication to applicant.